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PATENT
Attorney Docket No. FJN-060DV
(3999/63)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#11
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APPLICANT(S): Goto et al.
SERIAL NO.: 09/062,113 GROUP NO.: 1646
FILING DATE: April 17, 1998 EXAMINER: Romeo, D.
TITLE: NOVEL PROTEINS AND METHODS FOR PRODUCING THE
PROTEINS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

**ELECTION AND TRAVERSE OF THE RESTRICTION REQUIREMENT
WITH REQUEST FOR RECONSIDERATION AND WITHDRAWAL OF THE
REQUIREMENT UNDER 37 C.F.R. §1.143**

Responsive to the Office Action for the above-identified patent application, mailed from the U.S. Patent office January 31, 2000, please extend the date for response by one-month up to and including April 3, 2000. A petition for one-month extension of time and a check to cover the extension fee are enclosed.

ELECTION/RESTRICTION

Applicants thank the examiner for discussing the restriction requirement by phone on February 25, 2000. Claims 32-108 are pending in this application. In response to the restriction/election requirement dated January 31, 2000, applicants provisionally elect at least claim 46 (Group XXXIV) with traverse. Preferably, Applicants elect claim 46 rejoined with claims 34, 37, 40 and 43 as reasoned herein below. Applicants do not waive or abandon any rights in the non-elected inventions. The basis for applicant's traverse follows.

REMARKS

There are two criteria for a proper restriction requirement. MPEP §803. First, the inventions of the groups alleged to be separately patentable must be independent and distinct. Second there must be a serious burden on the Examiner if restriction is not required. Id. In making a requirement for restriction in an application claiming plural species, election of species should not be required if the species claimed are clearly unpatentable (obvious) over each other. MPEP § 808.01(a).